

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

**EDDIE OGLETREE, an individual; )  
GERALD STEPHENS, an individual )  
                                      )  
Plaintiff,                      )  
                                    )  
vs.                              )  
                                    )  
**CITY OF AUBURN, a municipality in The )  
State of Alabama; LARRY LANGLEY, an )  
individual; LEE LAMAR, an individual;    )  
**BILL HAM, Jr., an individual; STEVEN    )  
A.REEVES, an individual; BILL JAMES,    )  
an individual; CHARLES M. DUGGAN,    )  
an individual; and CORTEZ LAWRENCE,)  
an individual;                      )  
                                    )  
**Defendants,                      )********

**CIVIL ACTION NO:  
3:07-cv-867-WKW**

**JURY TRIAL DEMANDED**

**PLAINTIFFS' RESPONSE TO THE SHOW CAUSE ORDER DATED APRIL 9, 2008**

**COME NOW** the Plaintiffs, in response to the Show Cause Order, and state as follows:

1. The Plaintiffs, in Count II, are not asserting claims on behalf of Chris Turner, nor are they alleging that they were denied promotions to lieutenant. Rather, Count II is a Count alleging discriminatory hiring and promotions practices by the Defendants over a long period of time. The Count is meant to allege a more specific claim of "pattern and practice" than stated in Count I. Furthermore, Count II specifically explains how the stated lieutenant promotions violated the 1991 settlement. Consequently, the Plaintiffs have standing to pursue Count II because it is a promotion discrimination Count that specifically details a pattern and practice of discrimination over many years.

2. Plaintiffs concede that Count III may duplicate Count I since the Plaintiffs are not claiming two distinct instances of having their application for a promotion to battalion chief

denied. The Court's Order requires the Plaintiffs to show cause why Count I does not duplicate Count III; however, Plaintiffs respectfully submit that Count III probably duplicates Count I and respectfully request that Count I be left completely intact.

3. The Plaintiffs have already addressed herein the Defendants' Amended Motion to Strike.
4. The Plaintiffs are not opposing the Defendant's Motion for Leave to file the third party Complaint.

Respectfully submitted,

/s/ Richard F. Horsley  
**Richard F. Horsley HOR023**  
**Attorney for Plaintiff**

**OF COUNSEL:**

**KING, HORSLEY & LYONS**  
**1 Metroplex Drive, Suite 280**  
**Birmingham, Alabama 35209**  
**(205) 871-1310**

**CERTIFICATE OF SERVICE**

\_\_\_\_ I hereby certify that I have served a copy of the above and foregoing Response on all counsel of records listed below by placing a copy of same in the United States Mail, first class, postage pre-paid on this the 18<sup>th</sup> day of April, 2008.

**Randall Morgan, Esquire**  
**Hill, Hill, Carter, Franco, Cole & Black PC**  
**425 South Perry Street**  
**Montgomery, Alabama 36104**

/s/ Richard F. Horsley  
**OF COUNSEL**